

## **Senate Bill No. 1107**

### **CHAPTER 837**

An act to amend Section 85300 of, and to add Section 89519.5 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 29, 2016. Filed with  
Secretary of State September 29, 2016.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 1107, Allen. Political Reform Act of 1974.

Existing law prohibits a person who has been convicted of a felony involving bribery, embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes, from being considered a candidate for, or elected to, a state or local elective office. Existing law, the Political Reform Act of 1974, provides that campaign funds under the control of a former candidate or elected officer are considered surplus campaign funds at a prescribed time, and it prohibits the use of surplus campaign funds except for specified purposes.

This bill would prohibit an officeholder who is convicted of one of those enumerated felonies from using funds held by that officeholder's candidate controlled committee for purposes other than certain purposes permitted for the use of surplus campaign funds. The bill would also require the officeholder to forfeit any remaining funds held 6 months after the conviction became final, and it would direct those funds to be deposited in the General Fund.

The Political Reform Act of 1974 prohibits a public officer from expending, and a candidate from accepting, public moneys for the purpose of seeking elective office.

This bill would permit a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity established a dedicated fund for this purpose, as specified.

A violation of the act's provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) All citizens should be able to make their voices heard in the political process and hold their elected officials accountable.

(b) Elections for local or state elective office should be fair, open, and competitive.

(c) The increasing costs of political campaigns can force candidates to rely on large contributions from wealthy donors and special interests, which can give those wealthy donors and special interests disproportionate influence over governmental decisions.

(d) Such disproportionate influence can undermine the public's trust that public officials are performing their duties in an impartial manner and that government is serving the needs and responding to the wishes of all citizens equally, without regard to their wealth.

(e) Special interests contribute more to incumbents than challengers because they seek access to elected officials, and such contributions account for a large portion of the financial incumbency advantage, as confirmed by recent studies such as those published in the Journal of Politics in 2014 and Political Research Quarterly in 2016.

(f) Citizen-funded election programs, in which qualified candidates can receive public funds for the purpose of communicating with voters rather than relying exclusively on private donors, have been enacted in six charter cities in California, as well as numerous other local and state jurisdictions.

(g) Citizen-funded election programs encourage competition by reducing the financial advantages of incumbency and making it possible for citizens from all walks of life, not only those with connections to wealthy donors or special interests, to run for office, as confirmed by recent studies such as those published in State Politics and Policy Quarterly in 2008, and by the Campaign Finance Institute in 2015 and the National Institute of Money in State Politics in 2016.

(h) By reducing reliance on wealthy donors and special interests, citizen-funded election programs inhibit improper practices, protect against corruption or the appearance of corruption, and protect the political integrity of our governmental institutions.

(i) In *Johnson v. Bradley* (1992) 4 Cal.4th 389, the California Supreme Court commented that "it seems obvious that public money reduces rather than increases the fund raising pressures on public office seekers and thereby reduces the undue influence of special interest groups."

(j) In *Buckley v. Valeo* (1976) 424 U.S. 1, the United States Supreme Court recognized that "public financing as a means of eliminating the improper influence of large private contributions furthers a significant governmental interest."

(k) In *Arizona Free Enterprise v. Bennett* (2011) 564 U.S. 721, the United States Supreme Court acknowledged that public financing of elections “can further ‘significant governmental interest[s]’ such as the state interest in preventing corruption,” quoting *Buckley v. Valeo*.

(l) In *Buckley v. Valeo*, the United States Supreme Court further noted that citizen-funded elections programs “facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people.”

(m) The absolute prohibition on public campaign financing allows special interests to gain disproportionate influence and unfairly favors incumbents. An exception should be created to permit citizen-funded election programs so that elections may be conducted more fairly.

SEC. 2. Section 85300 of the Government Code is amended to read:

85300. (a) Except as provided in subdivision (b), a public officer shall not expend, and a candidate shall not accept, any public moneys for the purpose of seeking elective office.

(b) A public officer or candidate may expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter, and both of the following are true:

(1) Public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference.

(2) The state or local governmental entity has established criteria for determining a candidate’s qualification by statute, ordinance, resolution, or charter.

SEC. 3. Section 89519.5 is added to the Government Code, to read:

89519.5. (a) An officeholder who is convicted of a felony enumerated in Section 20 of the Elections Code, and whose conviction has become final, shall use funds held by the officeholder’s candidate controlled committee only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer’s expenses.

(2) The repayment of contributions.

(b) Six months after the conviction becomes final, the officeholder shall forfeit any remaining funds subject to subdivision (a), and these funds shall be deposited in the General Fund.

(c) This section does not apply to funds held by a ballot measure committee or in a legal defense fund formed pursuant to Section 85304.

SEC. 4. The provisions of this bill are severable. If any provision of this bill or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction,

or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

O